

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

RONALD GENE FRAZIER,

Defendant.

8:18CR327

MEMORANDUM AND ORDER

This matter is before the Court on the Government's Motion in Limine to Admit Evidence Involving the Defendant's Prior Convictions for Assault, ECF No. 17. The Defendant has not responded to the Motion.

The Government argues that the Defendant's prior convictions for assault are admissible to prove the elements of the charge under 18 U.S.C. § 117(a)(1), and admissible under Federal Rule of Evidence 404(b). The Court agrees that evidence of the Defendant's prior convictions for "offenses that would be if subject to Federal jurisdiction—(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner, or against a child of or in the care of the person committing the assault; or (2) an offense under chapter 110A [Domestic Violence and Stalking]" is relevant to prove the elements of the charge under 18 U.S.C. § 117(a)(1). Evidence of such prior convictions may be offered, without prejudice to the Defendant's timely objections at trial. With respect to the admissibility of evidence of the conduct forming the basis of the Defendant's prior assault convictions, under Fed. R. Ev. 404(b), the Government's Motion is denied, without prejudice to reconsideration at trial, at which time the Court will evaluate whether the proposed evidence is "relevant to a material issue; similar in

kind and not overly remote in time to the crime charged; (3) supported by sufficient evidence; and (4) higher in probative value than prejudicial effect.” *United States v. Strong*, 415 F.3d 902, 905 (8th Cir. 2005).

IT IS ORDERED:

The Government’s Motion in Limine to Admit Evidence Involving the Defendant’s Prior Convictions for Assault, ECF No. 17, is granted in part as follows:

Evidence of the Defendant’s prior convictions for “offenses that would be if subject to Federal jurisdiction—(1) any assault, sexual abuse, or serious violent felony against a spouse or intimate partner, or against a child of or in the care of the person committing the assault; or (2) an offense under chapter 110A” may be offered, without prejudice to the Defendant’s timely objections at trial;

And the Motion is otherwise denied.

Dated this 17th day of January, 2019.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge